

AMENDED IN ASSEMBLY JULY 9, 1996
AMENDED IN SENATE JANUARY 23, 1996

SENATE BILL

No. 384

Introduced by Senator Haynes

February 14, 1995

An act to amend Section 3011 of the Family Code, relating to children.

LEGISLATIVE COUNSEL'S DIGEST

SB 384, as amended, Haynes. Children: custody.

Existing law requires the court to consider certain specified factors in determining the best interests of a child in specified family law proceedings. Existing law provides that among those factors, the court shall consider a history of abuse by one parent against the other or against the child.

This bill would provide that the court shall also consider the habitual or continual illegal use of controlled substances or the habitual or continual alcohol abuse by either parent ~~and a specified order of custody preference.~~

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 3011 of the Family Code is
2 amended to read:
3 3011. In making a determination of the best interest
4 of the child in a proceeding described in Section 3021, the

1 court shall, among any other factors it finds relevant,
2 consider all of the following:

3 (a) The health, safety, and welfare of the child.

4 (b) Any history of abuse by one parent against the
5 child or against the other parent. As a prerequisite to the
6 consideration of allegations of abuse, the court may
7 require substantial independent corroboration,
8 including, but not limited to, written reports by law
9 enforcement agencies, child protective services or other
10 social welfare agencies, courts, medical facilities, or other
11 public agencies or private nonprofit organizations
12 providing services to victims of sexual assault or domestic
13 violence. As used in this paragraph, “abuse against the
14 child” means “child abuse” as defined in Section 11165.6
15 of the Penal Code and “abuse against the other parent”
16 means “abuse” as defined in Section 6203 of this code.

17 (c) The nature and amount of contact with both
18 parents.

19 (d) The habitual or continual illegal use of controlled
20 substances or habitual or continual abuse of alcohol by
21 either parent. Before considering these allegations, the
22 court may first require independent corroboration,
23 including, but not limited to, written reports from law
24 enforcement agencies, courts, probation departments,
25 social welfare agencies, medical facilities, rehabilitation
26 facilities, or other public agencies or nonprofit
27 organizations providing drug and alcohol abuse services.
28 As used in this paragraph, “controlled substances” has the
29 same meaning as defined in the California Uniform
30 Controlled Substances Act, Division 10 (commencing
31 with Section 11000) of the Health and Safety Code.

32 ~~(5) The order of preference set forth in Section 3040.~~